

REMARKS

Information Disclosure Statement

In the Office Action, the Examiner indicated that the IDS form filed on January 9, 2007 was blank. Applicant wishes to point out, however, that the IDS contained one non-patent literature reference, namely, an English translation of the International Report on Patentability which issued in connection with corresponding International Application No. PCT/DE2005/000032.

Specification

In the Office Action, the Examiner objected to the specification and claim 1 based on informalities. The specification and claim 1 have been amended to overcome the objections and it is therefore requested that the Examiner's objection be withdrawn.

Claims

The Examiner also rejected claims 1-9 as being indefinite. The relevant claims have been amended accordingly and it is therefore requested that the Examiners rejection be withdrawn.

Finally, the Examiner further rejected claims 1-9 citing German Patent No. 200 12 097 (Textron Verbindungstechnik) and United States Patent Nos. 4,033,243 (Kirrish) and 5,906,463 (Damm). Applicant respectfully traverses.

Damm discloses a screw with a head part and a threaded part. A sealing body made of an elastically deformable material is mounted on the head part. The sealing body has a circumferential sealing area in the transition zone between a bearing surface shaped below the head part and an outer surface of the head part. The sealing area is designed and/or arranged in

such a way that when the screw fitting element is tightened, the gap between the head part and the part supported on the bearing surface can be sealed around its circumference at least against liquids.

However, there must be a prejudice of one skilled in the art against providing a fastener which is to be set in a hole in a sheet without any additional biasing force from a nut or other threaded counterpart with such a seal, the compression of which for sealing needs additional force, which would tend to make this fastener much less expulsion proof. It seems that the present invention as well as that which is disclosed in Textron Verbindungstechnik refers to a fastener which is set in a hole in a sheet and is kept there just by the deformation of the sheet material in the undercut under the head of the fastener. One skilled in the art should normally argue that additional sealing elements would tend to give a higher risk of self-expulsion of such a fastener from the sheet in which it has been set. Thus, there is a strong prejudice against providing a fastener according to Textron Verbindungstechnik with an additional sealing element which increases the force, which tends to press the fastener out of the sheet where it is set.

One skilled in the art would not combine a bolt to be pressed into a sheet material to be kept there by deformation of the sheet material with classical screws or rivets provided with corresponding sealing elements, since one must be aware that such sealing elements must be compressed during the setting of the bolt to achieve tightness and the resulting counter force of the sealing material will tend to expulse the bolt which would make it extremely difficult to keep the corresponding bolts fixed in a sheet material.

Applicant wishes to point out that the international examiner of the European Patent Office has explicitly opined in the International Preliminary Examination Report (according to official translation):

“3.1 Although it is known from the publications D2, USA 2933006 and D3 USA 2326455 that the side of the head facing the metal sheet is partially or fully provided with a rubber-elastic sealing material, it was not obvious to apply such a solution to D1:

3.2 It was not obvious for a person skilled in the art to combine publications D1 and D2, since said person would already have been prejudiced to the extent that, in the case of bolts that can be pressed into a metal sheet in an ejection proof manner, it is already difficult enough to ensure sufficiently good non positive closure between the bolt and the metal sheet to ensure ejection proofness in the first place. The thought, that one would then be able to transfer the forces necessary for generating the closure pressure which brings about the sealing effect of the sealing material would seem abstruse to a person skilled in the art and aware of the prior art.

3.3 The same argument applies likewise to a combination of D1 with D3. D3 similarly does not show a bolt that can be pressed into a metal sheet in an ejection-proof manner, but rather a rivet. It is obvious for a person skilled in the art that, after placing such a rivet, twisting with the deformed shaft generates the force required to provide sufficient closure pressure for the sealing materials. D3 is thus further removed from the subject matter of the invention than D2.

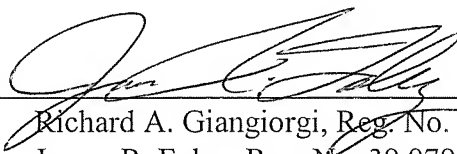
4.0 The invention is therefore novel and involves an inventive step.”

As such, Applicant respectfully submits that the claims are patentable over the prior art and requests that the Examiner reconsider his rejections based on same.

Should the present claims not be deemed adequate to effectively define the patentable subject matter, the Examiner is respectfully urged to call the undersigned attorney of record to discuss the claims in an effort to reach an agreement toward allowance of the present application.

Respectfully submitted,

Date: December 20, 2007

By: 
Richard A. Giangiorgi, Reg. No. 24,284
James R. Foley, Reg. No. 39,979
Attorneys for Applicant
TREXLER, BUSHNELL, GIANGIORGI,
BLACKSTONE & MARR, LTD.
105 West Adams Street, 36th Floor
Chicago, IL 60603-6299
(312) 704-1890

9T4370 WPD